

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NOs.20293 AND 21813 OF 2015

DATED:07-12-2015

W.P. No.20293 of 2015

Between:

Smt. Kondaveeti Krishna Kumari ... Petitioner

And

The Commissioner of Endowments
Andhra Pradesh State
Boggulakunta
Tilak Road, Abids
Hyderabad
and others

... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Vidyasagar

COUNSEL FOR RESPONDENT NOS.1, 2 and 4: G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NO.3 : Smt. K. Lalitha

W.P. No.21813 of 2015

Between:

Smt. Kondaveeti Krishna Kumari ... Petitioner

And

The Commissioner of Endowments
Andhra Pradesh State
Boggulakunta
Tilak Road, Abids
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... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Vidyasagar

COUNSEL FOR RESPONDENT NOs.1, 2 and 4: G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NO.3

: Smt. K. Lalitha

THE COURT MADE THE FOLLOWING:

COMMON ORDER:

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The petitioner is common in both these writ petitions. She has filed W.P. No.20293 of 2015 feeling aggrieved by proceedings in Memo Rc.No.L2/6797, dt.24.06.2015, of respondent No.2, whereby, while rejecting the petitioner's request for alienation of the land admeasuring Ac.1.63 cents in Sy. No.69/1 of Vallur Village, Ganapavaram Mandal, West Godavari District (hereinafter called 'the subject property'), belonging to Sri Chandrasekhara Swamy Temple, Ch. Agraharam Village, West Godavari District, he has issued instructions to the executive authority of respondent No.3 to take over the possession of the land and lease out the same in public auction. W.P. No.21813 of 2015 is filed questioning the consequential action taken by respondent No.3 for granting leasehold rights of the subject property.

I have heard Mr. M. Vidyasagar, learned counsel for the petitioner, and Smt. K. Lalitha, learned Standing Counsel appearing for respondent No.3 – temple.

In the view this Court is proposing to take, it is not necessary to refer to the merits of the case in detail. It will suffice to observe that while the petitioner is not pressing the prayer for invalidating the impugned Memo dt.24.6.2015 to the extent of rejecting her request for alienation of the subject land, she is aggrieved by the direction issued by respondent No.2 to the executive authority of respondent No.3 – temple to take possession of the land from the petitioner and lease out the same in public auction as per Rules.

Mr. M. Vidyasagar, learned counsel for the petitioner, submitted

that admittedly the petitioner is a landless poor person and declared as such and that therefore she is not liable to be evicted.

Smt. K. Lalitha, learned Standing Counsel for respondent No.3, however, submitted that since the petitioner is in huge arrears of lease amount, she is liable to be evicted.

The learned Standing Counsel has, however, not disputed the fact that no formal notice was issued by respondent No.2 or the executive authority of respondent No.3 directing her to show cause why she shall not be evicted for the alleged non-payment of arrears. Though the petitioner has filed several receipts in support of her plea that she has paid the arrears upto date, as the learned Standing Counsel has disputed the authenticity of these receipts, this Court refrains from rendering any finding on the genuineness or otherwise of these receipts. As respondent No.2 has not followed the procedure of issuing a notice to the petitioner and giving her an opportunity of proving that she is not in arrears of the lease amount, she cannot be evicted, without following such procedure. On this short ground alone, the Memo impugned in W.P. No.20293 of 2015 to the extent it contains the direction to respondent No.3 to recover possession of the subject property from the petitioner, is set aside. Consequently, the auction notice dt.27.6.2015 impugned in W.P. No.21813 of 2015 along with subsequent steps taken in pursuance of such auction notice, are set aside. Respondent No.2 is directed not to interfere with the petitioner's possession of the subject property. Liberty is however, left to respondent No.2 to issue show cause notice to the petitioner proposing eviction and after holding a detailed enquiry on the allegation that she is in arrears of lease amounts, he shall pass an appropriate order.

The writ petitions are accordingly allowed to the extent indicated above.

As a sequel to disposal of the writ petitions, W.P.M.P. No.26152 of 2015 in W.P. No.20293 of 2015, and W.P.M.P. No.28098 of 2015

and W.V.M.P. No.3197 of 2015 in W.P. No.21813 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

07-12-2015

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